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3 **BEFORE THE FEDERAL ELECTION COMMISSION**

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COMMISSION

4 In the Matter of)

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5) DISMISSAL AND
6) CASE CLOSURE UNDER **CELA**
7) ENFORCEMENT PRIORITY SYSTEM

8 MUR 6754)

9 Velma Hart)

10 AMVETS (American Veterans))

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12 **GENERAL COUNSEL'S REPORT**
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14 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
15 basis to allocate its resources and decide which matters to pursue. These criteria include, without
16 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking
17 into account both the type of activity and the amount in violation; (2) the apparent impact the
18 alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised
19 in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of
20 1971, as amended (the "Act"),¹ and developments of the law. It is the Commission's policy that
21 pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its
22 prosecutorial discretion to dismiss cases under certain circumstances. The Office of General
23 Counsel has determined that MUR 6754 should not be referred to the Alternative
24 Dispute Resolution Office. The Office of General Counsel has scored MUR
25 6754 as low-rated matters.² For the reasons set forth below, the Office of General Counsel
26 recommends that the Commission
27 dismiss MUR 6754.

¹ On September 1, 2014, the Act was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

²

The EPS rating information for MUR 6754 is as follows:
2013. Response Filed: October 17, 2013.

Complaint Filed: September 12,

1 On September 12, 2013, AMVETS (American Veterans) (aka "AMVETS"), a
2 Congressionally-chartered non-profit corporation³ that is tax-exempt pursuant to section 501(c)(19)
3 of the Internal Revenue Code ("I.R.C."),⁴

4 ³ See 36 U.S.C. § 22701 (AMVETS is a federally chartered corporation).

4 ⁴ The Internal Revenue Service explains that I.R.C. § 501(c)(19) applies "only to veterans' groups and their related auxiliaries." See <http://www.irs.gov/Charities-&-Non-Profits/Other-Non-Profits/Veterans-Organizations>.

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6 AMVETS has also filed a Complaint against Hart. Complaint ("Compl.") at 1-2. The
7 Complaint is , except for its claim that Hart had "actual
8 notice" that her contributions to ASAE's PAC, using AMVETS's corporate credit card and funds,
9 violated federal law. *Id.* at 2. The Complaint includes "contribution forms" allegedly provided by
10 ASAE's PAC and signed by Hart, which state that credit card contributions should be made using
11 personal credit cards and that contributions from corporations could not be accepted. *Id.*; *see also*
12 Ex. B (includes ASAE's PAC contribution forms).

13 In response, Hart does not deny having made the contributions, but states that AMVETS
14 required her to use "the corporate credit card for any and all expenses related to [her] participation,
15 and representing of AMVETS . . . [including] ASAE." Hart Response (Resp.) at 1. Hart also
16 asserts that all of her expenses related to ASAE were approved in advance by AMVETS' executive
17 director and that, before her departure from AMVETS, all of her credit card statements were
18 reviewed on a regular basis and were found to be in order.⁷ *Id.* at 1-2. She includes with her
19 Response a letter of recommendation apparently written on her behalf by AMVETS National

⁷ Hart acknowledges that an issue was raised as to the use of the AMVETS credit card for personal expenses by herself as well as other AMVETS employees. Resp. at 1. She states that AMVETS subsequently changed its policy to disallow the use of its credit cards for personal expenses. *Id.*

1 Executive Director James B. King, dated December 8, 2010, and further suggests that AMVETS
2 may have filed the instant Complaint in connection with an unrelated employment dispute. *Id.* at 2.
3 As for the contribution forms allegedly provided to her by ASAE, which state that corporation
4 contributions are prohibited, Hart acknowledges that she may have failed to read the "fine print,"
5 but asserts that she was "following the directives, policies and procedures" of AMVETS. *Id.* at 1.

6 The Act and Commission regulations prohibit corporate contributions. 52 U.S.C.
7 § 30118(a) (formerly 2 U.S.C. § 441b(a)); *see also* 11 C.F.R. § 114.2(a). Similarly, officers and
8 directors of corporations are prohibited from consenting to corporate contributions. 11 C.F.R.
9 § 114.2(e). Therefore, it appears that AMVETS and Hart, its National Finance Director, violated
10 the Act and Commission regulations in connection with Hart's contributions to ASAE's PAC.
11 However, it appears that \$750 of the \$1,500 in contributions at issue were made more than five
12 years ago and, therefore, appear to fall outside of the five-year statute of limitations. *See FEC v.*
13 *Williams*, 104 F.3d 237 (9th Cir. 1996), *cert. denied*, 522 U.S. 1015 (1997) (the general federal five-
14 year statute of limitations, 28 U.S.C. § 2462, applies to FEC civil enforcement actions that seek the
15 imposition of civil penalties). The remaining amount at issue, \$750, is *de minimis*. Further, an
16 investigation of the facts presented does not warrant the use of additional Enforcement resources.

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20 The Office of General Counsel also recommends that the Commission exercise its prosecutorial
21 discretion to dismiss MUR 6754. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, the
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Office of General Counsel recommends that the Commission approve the attached Factual and Legal Analysis and the appropriate letters, and close the file.


RECOMMENDATIONS

- 1.
2. Dismiss MUR 6754, pursuant to the Commission's prosecutorial discretion;
3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
4. Close the file.

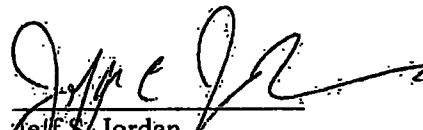
General Counsel

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Date

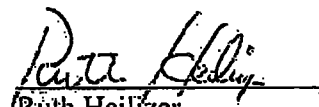
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